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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/629,921 | 07/29/2003 | Neil Y. Gilbert | 0002 Re-Reissue | 4739 |
| 7590 | 07/22/2004 | | | |
| EXAMINER | | | | |
| NEWHOUSE, NATHAN JEFFREY | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3727 | | | | |

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,921

Applicant(s)

GILBERT, NEIL Y.

Examiner

Nathan J. Newhouse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21,23-29,31-58 and 60-65 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-21,23-29,31-58 and 60-65 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Reissue Applications

1. This application is in condition for allowance except for the following formal matters:

The original patent, or a statement as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178..

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Allowable Subject Matter

2. Claims 1-21, 23-29,31-58 and 60-65 allowed.
3. The following is a statement of reasons for the indication of allowable subject matter:

For claims 1, 16 and 20, no prior art of record discloses a collapsible container wall structure that comprises a collapsible surface in helical portion that is parallel to the longitudinal axis of the container. Furthermore, there is no teaching in the prior art of record that would render such a surface obvious. The prior art patents to Seiferth et al. and Cooper are considered to be the most relevant art of record. In regard to Seiferth et al., lines such as those defined by the apex and valley of the helical portion of the collapsible wall are parallel to the longitudinal axis of the container. However, lines obviously cannot be interpreted as surfaces. In regard to Cooper, upper shell 22 and

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lower cup 12 comprise surfaces that are parallel to the longitudinal axis of the combined sections and collapsible container 36. However, while sections 22 and 12 telescope with regard to each other, they do not comprise a "helical portion having a collapsible surface" as no surface of a helical portion collapses.

For claims 27, 41, and 55 no prior art of record discloses a collapsible container with a collapsible surface portion having a generally uniform radius extending parallel to the central axis of the container defined by two longitudinally spaced groove portions with one groove portion extending at least 360 degrees around the cylindrical sidewall of the container and around a portion of the sidewall in an upward direction away from the base. Furthermore, there is no teaching in the prior art of record that would render such a collapsible surface obvious. The limitation of claims 27, 41 and 55 that the "first groove travels around a portion of the generally cylindrical sidewall structure in an upward direction" is understood to mean that a portion of the groove portion travels upward as it travels in a circumferential direction. This limitation defines the invention over Seiferth et al. because, while the groove portion of Seiferth et al. travels both circumferentially and upwardly, it does not travel upwardly while traveling circumferentially. In regard to the patents to Wiswell and Robbins, III., the collapsible surface portion is not defined by two longitudinally spaced groove portions with one groove extending at least 360 degrees around the cylindrical sidewall and around a portion of the sidewall in an upward direction away from the base (as defined above to mean that a portion of the groove portion travels upward as it travels in a circumferential direction.).

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Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 3,833,154


US 3,946,903

US 3,240,567

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nathan J. Newhouse
Primary Examiner
Art Unit 3727
7/17/04